

Trial Section Merits Panel
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Paper No. **16**

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

VIKRAM N. VAKHARIA
and KUN YAO
(08/940,968),

Junior Party,

v.

HEINRICH D. LÜTTICKEN,
EGBERT MUNDT, and ADRIAAN A.W.M. VAN LOON
(09/084,837),

Senior Party.

Interference No. 104,460

MAILED

DEC 21 1999

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before SCHAFFER, LEE, and TORCZON, Administrative Patent Judges.

TORCZON, Administrative Patent Judge.

JUDGMENT

(PURSUANT TO 37 CFR § 1.662(a)
AND RECOMMENDATION PURSUANT TO 37 CFR § 1.659)

INTRODUCTION

As discussed in Paper No. 17, Lütticken believes the subject matter of the count is not patentable, at least to it, in view of the references submitted in Paper No. 18. That concession constitutes a request for adverse judgment. 37 CFR § 1.662(a). Vakharia intends to swear behind the reference during further ex parte prosecution.

ORDER

Upon consideration of the record of this interference, it is ORDERED that judgment as to Count I be awarded against senior party Lütticken;

FURTHER ORDERED that senior party Lütticken is not entitled to a patent containing claims 1-4, 6-10, 15, and 24-31 of its 09/084,837 application, which correspond to count 1; and

FURTHER ORDERED that a copy of this decision be given a paper number and be entered in the administrative record of Vakharia's 08/940,968 application and Lütticken's 09/084,837 application;

and it is RECOMMENDED that, based on the record before us, junior party Vakharia's claims 25-44 of its 08/940,968 application, which correspond to count 1, be rejected as unpatentable in view of the references in Paper No. 18.


RICHARD E. SCHAFER
Administrative Patent Judge


JAMESON LEE
Administrative Patent Judge


RICHARD TORCZON
Administrative Patent Judge

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INTERFERENCES

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